
Massachusetts

An official from the Massachusetts Medicaid Fraud Control Unit told us that the unit began investigating cases of Medicaid fraud in the state on the part of independent clinical laboratories associated with recovery homes in 2007. The unit found that, in some cases, the laboratories owned recovery homes and were self-referring residents for urine drug testing. In other cases, the laboratories were paying kickbacks to recovery homes for patient referrals for urine drug testing that was not medically necessary. According to the Medicaid Fraud Control Unit official, as a result of these investigations the state settled with nine laboratories between 2007 and 2015 for more than \$40 million in restitution. In addition, the state enacted a law in 2014 prohibiting clinical laboratory self-referrals and revised its Medicaid regulations in 2013 to prohibit coverage of urine drug testing for the purposes of residential monitoring.²⁴

Ohio

Ohio has also begun to investigate an instance of potential insurance fraud related to recovery housing, including patient brokering and excessive billing for urine drug testing. Officials from the Ohio Medicaid Fraud Control Unit told us that the unit began investigating a Medicaid SUD treatment provider for paying kickbacks to recovery homes in exchange for patient referrals, excessive billing for urine drug testing, and billing for services not rendered, based on an allegation the unit received in September 2016.²⁵ As of January 2018, the investigation was ongoing, and the Ohio Medicaid Fraud Control Unit had not yet taken legal or other action against any providers. Officials from other state agencies and related state entities, such as the state substance abuse agency and the state NARR affiliate, were not aware of any investigations of potential fraud on the part of recovery housing operators or associated treatment

²⁴See Mass. Gen. Laws ch. 111D, §§ 8(17), 8A (2017); 130 CMR 404.411(b)(5). The 2014 law also imposed civil and criminal penalties for individuals violating the clinical self-referral rule, such as civil penalties ranging from \$5,000 to \$10,000 per violation, plus three times the amount of damages sustained, jail or imprisonment for up to 5 years, or a combination of both. See Mass. Gen. Laws ch. 111D, § 13 (2017).

²⁵According to Ohio Medicaid Fraud Unit officials, this investigation is being conducted jointly with federal agencies, including the Department of Health and Human Services Office of Inspector General and the Federal Bureau of Investigation.

establishing state certification or licensure programs. Florida enacted legislation in 2015 and Massachusetts enacted legislation in 2014 that established voluntary certification programs for recovery housing. Florida established a two-part program for both recovery homes and recovery housing administrators (i.e., individuals acting as recovery housing managers or operators). According to officials from the Florida state attorney's office and Massachusetts Medicaid Fraud Control Unit, their states established these programs in part as a result of state law enforcement investigations. In 2014, Utah enacted legislation to establish a mandatory licensure program for recovery housing. According to officials from the Utah substance abuse agency and the state licensing office, the state established its licensure program to, in part, protect residents' safety and prevent their exploitation and abuse.

Although state recovery housing programs in Florida and Massachusetts are voluntary and recovery homes and their administrators can operate without being certified, there are incentives for homes to become certified under these states' programs, as well as incentives to become licensed under Utah's program. Specifically, all three states require that certain providers refer patients only to recovery homes certified or licensed by their state program.²⁶ Thus, uncertified and unlicensed homes in Florida, Massachusetts, and Utah would be ineligible to receive patient referrals from certain treatment providers. Further, state officials told us that state agencies are taking steps to ensure providers are making appropriate referrals. For example, according to officials from the Florida substance abuse agency, treatment providers may refer patients to certified recovery homes managed by certified recovery home administrators only and must keep referral records. These officials also told us that the state substance abuse agency can investigate providers to ensure they are referring patients to certified homes and issue fines or revoke providers' licenses if the program finds providers are referring patients to uncertified homes. Recovery homes may also view certification as a way to demonstrate that they meet quality standards. For example, the official from the Massachusetts NARR affiliate told us that some residential treatment centers that are required to be licensed by the state are also seeking certification to demonstrate that they meet the NARR affiliate's quality standards.

²⁶In Massachusetts, this requirement applies to referrals from state agencies and state-funded providers only. In Utah, this requirement applies to referrals from the criminal justice system, such as drug courts.

Program characteristic	Florida (Recovery homes)	Florida (Recovery housing administrators)	Massachusetts	Utah
Program type	Voluntary certification	Voluntary certification	Voluntary certification	Mandatory licensure
Year program was implemented	2015 ^f	2016 ^f	2017	2014
Number certified or licensed ^g	310 ^h	344 ^h	164	61

Legend: n/a = not applicable

Source: GAO review of state information. | GAO-18-315

Note: This table reflects information from three of the five states we reviewed that established oversight programs for recovery housing. The other two states we reviewed—Ohio and Texas—have not established such oversight programs, but the states' NARR affiliates may certify certain recovery homes in their states on a voluntary basis according to NARR standards. NARR is a national nonprofit and recovery community organization that promotes quality standards for recovery housing.

^aNARR defined four levels of recovery housing (I through IV) based on type, intensity, and duration of recovery support and staffing they offer. NARR level I and II residences are primarily self-funded, peer-run, single family homes where residents have an open-ended length of stay. Level III and IV residences are structured or semi-structured living environments with paid facility staff, such as case managers, to assist residents in developing treatment plans and may be licensed by the state.

^bAccording to officials from the Massachusetts substance abuse agency, facilities operating according to NARR levels III and IV are to be licensed by the state as residential treatment centers.

^cAccording to the official from the Massachusetts Alliance for Sober Housing—the state NARR affiliate—while that entity administers the certification program on behalf of the state, another organization conducts the inspections required for certification.

^dFees reflect the initial amount that recovery homes and administrators must pay when they first apply for certification or licensure. They may be assessed a different fee when applying for recertification or license renewal.

^eCertification fees are capped at \$2,500 per location for level I and II homes and \$3,500 per location for level III and IV homes.

^fThe implementation date is the year that officials from Florida Association of Recovery Residences and the Florida Certification Board told us they began certifying recovery homes and recovery housing administrators.

^gNumbers of certified or licensed recovery homes and recovery housing administrators are as of December 31, 2017.

^hIn Florida, recovery homes must have certified recovery housing administrators to be certified. The number of certified homes differs from the number of certified recovery housing administrators because a certified recovery home must have one certified recovery housing administrator for every three locations.

State-established oversight programs in Florida, Massachusetts, and Utah also include processes to monitor certified or licensed recovery homes and take action when homes do not comply with program standards. For example, an official from the Florida Association of Recovery Residences—the state NARR affiliate and organization that certifies recovery homes in Florida—told us that the entity conducts random inspections to ensure that recovery homes maintain compliance with program standards. State-established oversight programs in the three states also have processes for investigating grievances filed against

funds for Ohio Recovery Housing and has continued to fund the affiliate for it to provide training and technical assistance, as well as to continue certifying recovery homes.³⁰ According to officials from Ohio Recovery Housing, the NARR affiliate regularly provides the state substance abuse agency with a list of newly-certified recovery homes, as well as updates on previously-certified homes, as part of ongoing efforts to develop a recovery housing locator under its contract with the agency.

- Officials from the Texas substance abuse agency noted that establishing a voluntary certification program, such as one that certifies homes according to NARR's quality standards, would be beneficial. However, the state legislature has not enacted any legislation establishing such a program to date. The agency is in the process of developing guidance for providers on where and how to refer their patients to recovery housing, which includes a recommendation to send patients to homes certified by the Texas NARR affiliate, but officials could not tell us when they expected the guidance to be finalized.

Certain SAMHSA Grant Funding Can Be Used for Recovery Housing, and Selected States Have Used SAMHSA and State Funding to Support Recovery Housing

SAMHSA provides some funding for states to establish recovery homes. Of the five states we reviewed, two used SAMHSA funding and four used state funding to help support recovery housing from fiscal year 2013 through fiscal year 2017.

³⁰Officials from Ohio Recovery Housing told us that the state provided funding as part of its response to an examination of recovery housing in Ohio supported by the Ohio substance abuse agency and published in 2013 that made several recommendations to address the challenges and the lack of resources for recovery housing in the state. See K. Paquette, N. Greene, L. Sepahi, K. Thom, and L. Winn, *Recovery Housing in the State of Ohio: Findings and Recommendations from an Environmental Scan* (Columbus, Ohio: June 2013). According to officials from Ohio Recovery Housing, such steps have successfully expanded recovery housing networks in the state.

SAMHSA has also made funding for recovery housing available under the agency's State Targeted Response to the Opioid Crisis grant (opioid grant), a 2-year grant program under which SAMHSA anticipated awarding up to \$485 million for each of fiscal years 2017 and 2018.³⁴ The opioid grant is intended to supplement states' existing opioid prevention, treatment, and recovery support activities, and SAMHSA requires most of states' funding to be used for opioid use disorder treatment services, such as expanding access to clinically appropriate, evidence-based treatment. States may also use their opioid grant funding for recovery housing and recovery support services—which SAMHSA recognizes as part of the continuum of care—such as establishing recovery homes and providing peer mentoring.³⁵ (See the next section of this report for information on how states have used SAMHSA funding.)

In addition to providing funding, SAMHSA has undertaken other initiatives related to recovery housing, including an assessment of needs for certifying recovery housing in the future. In 2017, SAMHSA held two recovery housing meetings that covered topics including research on emerging best practices in recovery housing, state recovery housing programs, available funding for recovery housing, and challenges that state entities have experienced regulating recovery homes in their states. SAMHSA contracted with NARR at the end of fiscal year 2017 to provide technical assistance and training to recovery housing organizations, managers, and state officials on NARR's quality standards and certification process, including presentations at three to four national and regional SUD conferences, such as those held by the National Association of State Alcohol and Drug Abuse Directors and other

³⁴The State Targeted Response to the Opioid Crisis grant was established by the 21st Century Cures Act. See Pub.L. No. 114-255 § 1003, 130 Stat. 1033, 1044-46 (2016). SAMHSA awarded the opioid grants to states and territories using a formula based on unmet need for opioid use disorder treatment and drug overdose deaths.

³⁵According to SAMHSA, recovery support services include a full range of culturally and linguistically appropriate social, legal, and other services that assist individuals with SUD and their families. Recovery support services include employment assistance, education, housing, community treatment, illness management, and peer-operated services. There are other SAMHSA funds available for recovery support services that may help individuals access emergency or temporary housing but cannot be used to establish recovery homes. For example, SAMHSA's Access to Recovery grant, which SAMHSA officials said the agency is terminating April 30, 2018, provided funding to eligible states to carry out a voucher program for SUD recovery support services, such as peer coaching, transportation to medical treatment, and other services to help individuals improve life skills or find employment. The grant also provided vouchers for individuals to pay for emergency housing for up to 1 week and transitional housing for up to 6 months.

housing. In fiscal years 2015 through 2017, the state used this funding for personnel costs and related expenditures, such as hiring seven Oxford House outreach workers and establishing a state loan fund of \$200,000 to supplement the SAMHSA loan funding to support the establishment of an additional 25 new Oxford Houses.³⁷ Officials from the Massachusetts substance abuse agency told us that the agency has received annual state appropriations in the amount of \$500,000 since fiscal year 2015 to contract with the entities that inspect and certify recovery homes for the state certification program and to contract with the state NARR affiliate for technical assistance with developing recovery housing certification standards and supporting the certification process. State substance abuse agency officials from the fifth state, Utah, told us that the state did not use state funding to establish recovery homes during fiscal years 2013 through 2017.³⁸ See table 2 for states' use of SAMHSA and state funding for recovery housing activities.

Table 2: Selected States' Use of Federal and State Funding for Recovery Housing and Oversight Activities, Fiscal Years 2013 through 2017

State	Funding source	Fiscal Year (FY) 2013 (dollars)	FY 2014 (dollars)	FY 2015 (dollars)	FY 2016 (dollars)	FY 2017 (dollars)
Florida	State funding (Florida Association of Recovery Residences certification activities)	no funds received	no funds received	\$100,000 ^a	no funds received	\$100,000 ^b
Florida	State funding (Florida Certification Board certification activities) ^c	no funds received	100,000	no funds received	no funds received	n/a
Massachusetts	State funding (voluntary recovery housing certification program) ^d	no funds received	no funds received	500,000	500,000	500,000

³⁷During this period, Texas also used these funds to provide \$5,000 in stipends to help individuals recovering from SUD find housing. According to officials from the Texas substance abuse agency, the stipend is a one-time amount of about \$150 per individual and is intended to help those individuals secure housing and employment to enable them to subsequently pay for their own housing. Officials noted that the substance abuse agency initially used funding from SAMHSA's Substance Abuse Prevention and Treatment block grant to provide the stipend, but the state legislature thought it was a good program and allocated money for it from state general funds.

³⁸Although the state did not use any state funding to establish recovery homes, officials from the Utah substance abuse agency told us that Utah uses state funding for recovery support services, including housing assistance for individuals transitioning from the criminal justice system (e.g., drug courts or correctional facilities) to the community.

housing, according to officials from the state substance abuse agency, this information is not reflected in the above table.

^gThe Ohio capital bond funding was used for the purchase, renovation, or new construction of recovery homes. According to officials from the state substance abuse agency, the capital funds covered recovery housing projects for multiple units and increased recovery housing capacity in the state to more than 1,000 beds.

^hAlthough the state did not use any state funding to establish recovery homes in our study period, officials from the state substance abuse agency told us that the state used a total of about \$38,000 across all 5 years to assist individuals with substance use disorder who were on parole and at immediate risk for relapse as a result of their current housing situation to enter recovery housing.

List of Requesters

The Honorable Orrin Hatch
Chairman
Committee on Finance
United States Senate

The Honorable Trey Gowdy
Chairman
Committee on Oversight and Government Reform
House of Representatives

The Honorable Richard Blumenthal
United States Senate

The Honorable Dianne Feinstein
United States Senate

The Honorable Margaret Wood Hassan
United States Senate

The Honorable Tim Kaine
United States Senate
The Honorable John McCain
United States Senate

The Honorable Christopher S. Murphy
United States Senate

The Honorable Marco Rubio
United States Senate

The Honorable Elizabeth Warren
United States Senate

The Honorable Rob Bishop
House of Representatives

The Honorable Ken Calvert
House of Representatives

The Honorable Katherine M. Clark
House of Representatives

Appendix I: State Agencies and Related Entities GAO Interviewed

We interviewed officials from the following agencies and related entities in the five states we selected for review.

Florida

- Agency for Health Care Administration, Division of Medicaid
- Department of Children and Families, Substance Abuse and Mental Health Program
- Department of Financial Services, Division of Investigative and Forensic Services^a
- Florida Association of Recovery Residences^b
- Florida Certification Board
- Attorney General, Medicaid Fraud Control Unit and Office of Statewide Prosecution
- State Attorney, 15th Judicial Circuit (Palm Beach County)

Massachusetts

- Bureau of Substance Addiction Services, Massachusetts Department of Public Health
- Division of Insurance
- MassHealth (state Medicaid office)
- Massachusetts Alliance for Sober Housing^b
- Medicaid Fraud Control Unit

Ohio

- Department of Insurance^c
- Department of Medicaid
- Department of Mental Health and Addiction Services

Texas

- Department of Insurance^c
- Health and Human Services Commission, Mental Health and Substance Abuse Division
- Health and Human Services Commission, Medicaid and CHIP
- Medicaid Fraud Control Unit^c
- Texas Recovery-Oriented Housing Network^b

Utah

- Department of Health, Division of Medicaid and Health Financing^c
- Department of Human Services, Division of Substance Abuse and Mental Health
- Department of Human Services, Office of Licensing
- Insurance Department
- Medicaid Fraud Control Unit
- Utah Association of Addiction Treatment Providers^{b,d}

Source: GAO. | GAO-18-315

Notes:

^aThis division investigates potential insurance fraud in Florida.

^bState affiliate of the National Alliance for Recovery Residences (NARR).

^cThis organization provided written responses to our queries.

^dAs of January 2018, NARR classified the Utah affiliate as "developing." Officials from the Utah Association of Addiction Treatment Providers told us that its recovery residence activities were conducted by one of the association's committees, and the committee was not actively certifying recovery houses in Utah according to the NARR standards.

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CITY OF COSTA MESA

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FROM THE OFFICE OF THE CITY COUNCIL

September 12, 2018

Chairman Steve King
Subcommittee on the Constitution and Civil Justice
2138 Rayburn House Office Building
Washington, DC 20515

Chairman King,

As a Council Member for the City of Costa Mesa, I recognize that while not in character with residential neighborhoods, when operated responsibly, sober living homes and state licensed drug and alcohol treatment facilities (collectively, "sober living facilities"), provide a societal benefit by providing disabled persons as defined by state and federal law the opportunity to live in residential neighborhoods, as well as providing recovery programs for individuals attempting to overcome their drug and alcohol addictions. However, the City currently has the largest concentration of residential sober living treatment facilities providing nonmedical treatment for individuals recovering from drug and alcohol addiction than any other City in the State of California. With approximately 90 state licensed residential drug and alcohol treatment facilities, the City has roughly 25% of all such facilities in Orange County. In addition, there are an estimated 80 plus sober living homes, both permitted and unpermitted, operating in Costa Mesa.

The well documented negative impacts of this high concentration of sober living facilities has been felt in residential areas throughout the City. These impacts include increased traffic, calls for service by the City's police and fire departments, excessive noise, smoking and trash. In addition, these facilities tend to congregate in close proximity to one another, which has served to "institutionalize" and otherwise transform residential neighborhoods to the detriment of everyone residing nearby including the clients in treatment. To protect all residents of Costa Mesa - including those residing in sober living facilities - the City has adopted local ordinances to help preserve the residential character of its neighborhoods by regulating the location and operation of all sober living homes and the location of large state licensed residential drug and alcohol treatment facilities. These ordinances are designed to ensure that the sober living facilities are legitimate, properly operated and serve the needs of the community as a whole.

At both the state and national level, the City has been a leader in its efforts to properly regulate the negative impacts of the sober living industry. However, the City's



CITY of LAGUNA NIGUEL

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CITY COUNCIL

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Mayor Pro Tem John Mark Jennings
Council Member Laurie Davies
Council Member Linda Lindholm
Council Member Fred Minagar

September 6, 2018

The Honorable Steve King
Chairman of the Subcommittee on the Constitution and Civil Justice
2238 RHOB
Washington, DC 20515

VIA EMAIL: Andrew.Eisenberger@mail.house.gov

**Re: H.R. 5724 (Rohrabacher) – Restoring Community Oversight of Sober Living Homes Act of 2018.
Notice of Support**

Dear Chairman King:

The City of Laguna Niguel supports H.R. 5724, the Restoring Community Oversight of Sober Living Homes Act of 2018. This bill would amend the Fair Housing Act (FHA) to clarify the Act's applicability to recovery facilities, also known as sober living homes, in residential communities.

Local communities and their elected officials are currently unable to address effectively the proliferation of recovery facilities in residential neighborhoods due to FHA constraints. They are businesses in all but name, and in many cases, occupancy of these recovery facilities is transient, the surrounding community experiences increases in police activity, operators of the homes are committing fraud, and the area residents and their elected officials are powerless to address concerns about the changing character of their neighborhoods.

In Laguna Niguel, one of our highest priorities is to preserve the high quality of life our residents enjoy. Residential drug and alcohol treatment facilities provide valuable rehabilitation and supportive services in a therapeutic environment, which can benefit both individual patients and the greater community. However, the single licensed rehabilitation facility nestled into the fabric of a community has been taken over by companies that have created multi-structure, campus-style facilities within a residentially zoned neighborhood. Many of these facility operators continue to operate multistructure facilities and pay minimal fines because of the existing penalty structure.

We want to preserve the neighborhoods in our community for families. At least once a month, we hear from residents who live near a residential drug and alcohol treatment house being run by an out-of-state company with no ties to the neighborhood. We listen to instances of loud music at all hours of the day and night, constant exposure to cigarette smoke, trash left on nearby lawns, loud talking and shouting (even fist-fights) between housemates, and the congregation of men and women in the driveway, waiting for a van to take them to their educational sessions. In general, our residents are concerned about the degradation and loss of neighborliness that they used to enjoy in their neighborhood, and we are concerned, too. A strong and vibrant community is based on the



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Sober living homes are businesses that need local oversight

By DANA ROHRABACHER
SEP 07, 2018 | 3:05 PM



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Then, among other things, you notice an increase in police activity on your block and around your home, and become concerned about the character of the neighborhood in which you chose to live with your family.

You call your local city council and report your concerns, and you're told you may live next to a "sober living home." They wish they could help, but their lawyers have already told them their hands are tied.

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This is an illustration akin to the experience of many homeowners throughout Orange County and other communities throughout our country. Sober living homes

Addicts who are legitimately trying to recover deserve to receive the care they earnestly seek in licensed facilities that exist in a location with the consent of local communities.

That is why I authored and introduced House Resolution 5724, the Restoring Community Oversight of Sober Living Homes Act of 2018. This legislation, if enacted, would narrowly amend the Fair Housing Act to define “recovery facility” in federal law.

Recovering addicts with traditional landlord-tenant arrangements would not be affected by my legislation. The bill would also repeal “substance use disorder” from the list of essential health benefits that were enacted in the so-called Patient Protection and Affordable Care Act of 2010, which will allow states and insurance companies another avenue by which to tackle the fraud being committed by so many operators of the facilities.

Congress is becoming increasingly aware of these problems, and I am happy to announce that the House Judiciary Subcommittee on the Constitution and Civil Justice plans to conduct a public hearing on the issue on Sept. 14. Huntington Beach Mayor Pro Tempore Erik Peterson and I, among others, will testify at this hearing to highlight this serious problem for our communities.

We must implement a balanced approach. We applaud those who seek to defeat their addictions and cheer them on in their battle for sobriety. Let us ensure they are in a safe environment that is suitable to their recovery. We respect the rights of homeowners, who broadly sympathize with the addicts, to live in a community that is safe for their families and retains the character it had when they purchased their home.

Rep. Dana Rohrabacher (R-Costa Mesa) represents the 48th Congressional District of California.

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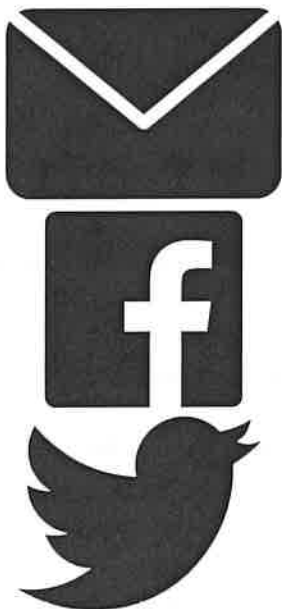
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Cameron High, 22, has stayed at 10 different sober-living homes in two years along the Orange County coast -- it's called the Rehab Riviera because of the high concentration of drug recovery facilities.

David Gorn

David Gorn | Take Two® | April 30, 2018



His name is Cameron High. Says so on his driver's license, and on his cannabis card. And he has the counterculture aura down pat — dreadlocks, the soft yeah-dude voice and bright conspiratorial smile.

The not-in-my-backyard sentiment from municipalities is understandable but unwarranted, she said. The homes are legal and here to stay, she said, so cities should work with them rather than against them.

"It just comes down to how do you achieve sober-living homes living with the community in harmony," Daley said.

Cameron High said he had to travel pretty far inland to find a sober-living home that really was sober, one in Anaheim where the residents are older and a little more serious about giving up drugs. For this reason, his drug use and attraction to the easy, big-money payoff for dealing them have grown during his time in California.

"Out here it's crazy," High said. "Orange County looks like it's all nice, but behind the scenes, it's bad. I never even saw heroin and meth until I came out here.

"I'm thinking, I may have to go somewhere else," he continued, "... because around here, there's just too much stuff around, and too many people I know who pull at you, you know? So yeah, maybe it's time, ... and that means getting out of Orange County."

That could take awhile. At this writing, High remains in jail on charges of possessing drugs with intent to sell. He has pleaded not guilty.

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